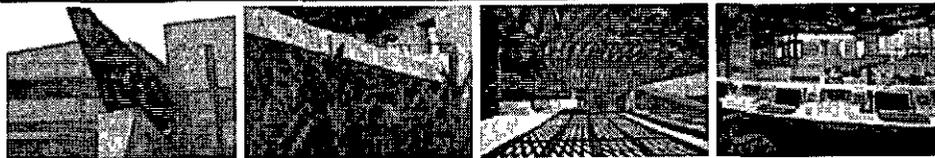


A U S T I N C I T Y C O U N C I L

**AGENDA**

Thursday, December 14, 2006

+ Back Print

**Zoning Ordinances / Restrictive Covenants  
(HEARINGS CLOSED)  
RECOMMENDATION FOR COUNCIL ACTION****ITEM No. 64**

---

**Subject:** C14-06-0158 - Oasis in West Campus - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1801 Nueces Street (Shoal Creek Watershed) from general office (GO) district zoning to downtown mixed use-conditional overlay (DMU-CO) combining district zoning. First reading approved on October 19, 2006. Vote. 7-0. Applicant: Oasis in West Campus (Darryl L. Mobley). Agent: Carter Design Associates (Donna D. Carter) City Staff. Jorge E. Rousselin, 974-2975. A valid petition has been filed in opposition to this rezoning request.

**Additional Backup Material**

(click to open)

**Staff Report****For More Information:**

**ZONING REVIEW SHEET****CASE:** C14-06-0158**P.C. DATE:** August 22, 2006**ADDRESS:** 1801 Nueces Street**OWNER:** Oasis in West Campus (Darryl L. Mobley)**AGENT:** Carter Design Associates  
(Donna D. Carter)**REZONING FROM:** GO (General Office)**TO:** DMU (Downtown mixed use)**AREA:** 0.15 Acres (6,534 sq ft)**SUMMARY PLANNING COMMISSION RECOMMENDATION:***August 22, 2006:****APPROVED STAFF'S RECOMMENDATION OF DMU-CO ZONING WITH ADDED  
CONDITION OF: MINIMUM OF 1 RESIDENTIAL UNIT ON THE PROJECT  
[C.GALINDO, M.DEALEY 2<sup>ND</sup>] (5-2) J.REDDY, C.RILEY – NAY***

- Maximum density of 6.66 units per acre

**SUMMARY STAFF RECOMMENDATION:**

Staff recommends DMU-CO (Downtown mixed use) conditional overlay combining district. The recommended conditional overlay will limit the vehicle trips to less than 2,000 trips per day. The recommendation is based on the following considerations:

- 1) The proposed use is compatible with existing mixed uses and commercial development along Nueces Street, and West 18<sup>th</sup> Street.
- 2) It is adjacent to the designated Core Downtown District as identified by the Downtown Austin Design Guidelines.
- 3) The Downtown Austin Design Guidelines recommend providing dense, multi-tenant, pedestrian-oriented development at street level while encouraging the densification of the downtown core.
- 4) The proposed development will not be subject to compatibility standards.

**DEPARTMENT COMMENTS:**

The subject rezoning area is a 6,534 square foot office building fronting Nueces Street and West 18<sup>th</sup> Street zoned GO. The applicant proposes to rezone the property to DMU to allow for a 60'-65' tall mixed use building to include retail, offices and residential components at 10 units with a maximum floor to area ratio of 3:1. Covered parking is proposed on the first floor along with pedestrian-oriented retail. Access to the property is proposed from Nueces Street and abutting alley north of the property. Approximately 11-12 parking spaces are proposed with 3 spaces and loading zone accessed from the abutting alley.

**GO Development Standards:**

<b>GO</b>	
Maximum Height:	60'
Maximum Building Coverage	60%
Maximum Impervious Cover	80%
Maximum Floor Area Ratio	1.1

**DMU Development Standards:**

<b>DMU</b>	
Maximum Height	120 feet
Maximum Building Coverage:	100%
Maximum Impervious Cover.	100%
Maximum Floor Area Ratio:	5.1

Source: The Code of the City of Austin, Volume III, Chapter 25-2-492

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	GO	Apartments
<i>North</i>	CS	Restaurant
<i>South</i>	GO	Office buildings
<i>East</i>	GO	Condominiums
<i>West</i>	GO	Apartments

**AREA STUDY:**

Downtown Austin Design Guidelines

**TIA:** Waived; See Transportation comments

**WATERSHED:** Shoal Creek

**DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** N/A

**HILL COUNTRY ROADWAY:** N/A

**NEIGHBORHOOD ORGANIZATIONS:**

142--Five Rivers Neighborhood Assn  
 402--Downtown Austin Neighborhood Assn (DANA)  
 511--Austin Neighborhoods Council  
 623--City of Austin Downtown Commission  
 698--West Campus Neighborhood Association  
 742--Austin Independent School District  
 744--Sentral Plus East Austin Koalition (SPEAK)  
 767--Downtown Austin Neighborhood Coalition

**SCHOOLS:**

Austin Independent School District  
 1. Mathews Elementary School  
 2. O. Henry Middle School  
 3. Austin High School

**RELATED CASES:** N/A**CASE HISTORIES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-96-0029	GO to DMU	03/26/96: APVD. DMU-CURE (9-0).	04/25/96. APVD DMU-CO LIMITING HEIGHT TO 60' (5-0); ALL 3 RDGS.
C14-99-2066	GO to DMU	01/25/00. APVD STAFF REC OF DMU-CO & DMU-H-CO (8-1 JR-NAY), INCLUDING CONDS BY HLC & CONDS AGREED UPON BY AP & NEIGH, DELETE COUNSELING SVCS FROM THE PROHIBITED USES (8-1 JR-NAY)	05/18/00. APVD PC REC OF DMU-H-CO (TR 1) & DMU-CO (TR 2 & 3) (5-0)
C14-00-2081	GO to CBD	05/16/00: APVD STAFF REC OF CS-CURE-CO (7-0-1, BB-OFF DAIS, AN-ABSTAIN), W/CBD PKC REQ'T & PROHIBIT DRIVE-THRU USES.	06/22/00 APVD CS-CURE ON ALL RDGS (7-0)
C14-01-0052	GO to LR	05/22/01: APVD STAFF REC OF LR-CO W/CONDS (6-2, JR/BB-NAY)	07/19/01 APVD LR-CO W/CONDS (6-0), 1ST RDG.  08/09/01: APVD CS-CO (7-0), 2ND/3RD RDGS

**ABUTTING STREETS:**

<b>Name</b>	<b>ROW</b>	<b>Pavement</b>	<b>Classification</b>	<b>Sidewalks</b>	<b>Bus Route</b>	<b>Bike Route</b>
Nueces Street	80'	40'	Collector	No	Yes	Priority 1
18 <sup>th</sup> Street	60'	30'	Collector	Yes	No	Priority 1 west of Nueces

**CITY COUNCIL DATE:**

September 28, 2006

**ACTION:**

This item was postponed to October 19, 2006 at the adjacent property owner's request.

October 19, 2006

**ORDINANCE READINGS:** 1<sup>st</sup>                      2<sup>nd</sup>                      3<sup>rd</sup>**ORDINANCE NUMBER:****CASE MANAGER:** Jorge E. Rousseln, NPZD**PHONE:** 974-2975**E-MAIL:** [jorge.rousseln@ci.austin.tx.us](mailto:jorge.rousseln@ci.austin.tx.us)



  
 SUBJECT TRACT   
 PENDING CASE   
 ZONING BOUNDARY   
 CASE MGR J ROUSSELIN

**ZONING**

CASE #: C14-06-0158  
 ADDRESS: 1801 NUECES ST  
 SUBJECT AREA (acres). 0.150

DATE: 06-07  
 INTLS: SM

**CITY GRID REFERENCE NUMBER**  
 J23



## STAFF RECOMMENDATION

Staff recommends DMU-CO (Downtown mixed use) conditional overlay combining district. The recommended conditional overlay will limit the vehicle trips to less than 2,000 trips per day. The recommendation is based on the following considerations:

- 1.) The proposed use is compatible with existing mixed uses and commercial development along Nueces Street, and West 18<sup>th</sup> Street
- 2.) It is adjacent to the designated Core Downtown District as identified by the Downtown Austin Design Guidelines;
- 3.) The Downtown Austin Design Guidelines recommend providing dense, multi-tenant, pedestrian-oriented development at street level while encouraging the densification of the downtown core;
- 4.) The proposed development will not be subject to compatibility standards

## BASIS FOR RECOMMENDATION

### *1. The proposed zoning should be consistent with the purpose statement of the district sought.*

#### *25-2-101 DOWNTOWN MIXED USE (DMU) DISTRICT DESIGNATION.*

*Downtown mixed use (DMU) district is the designation for a use located on the periphery of an area that has a CBD designation. A DMU district designation may be applied to a development that includes any combination of office retail, commercial, and residential uses and that is compatible with the downtown area. A DMU district use with an intermediate density may be used as a transition between the downtown area and surrounding districts. A DMU district is suitable for an area to which the central business district may expand*

The proposed rezoning meets the purpose statement set forth in the Land Development Code. The proposed mix of uses will encourage a diversity of land uses along Nueces Street and West 18<sup>th</sup> Street.

### *2. The proposed zoning should promote consistency, and orderly planning.*

The proposed change and recommended conditional overlay is compatible with the surrounding area as it is surrounded by a mixture of land uses, intensities, and mixed zoning. The proposed land uses are compatible to the existing adjacent uses.

## EXISTING CONDITIONS

### Site Characteristics

The subject rezoning area is a 6,534 square foot office building fronting Nueces Street and West 18<sup>th</sup> Street zoned GO. The applicant proposes to rezone the property to DMU to allow for a 60'-65' tall mixed use building to include retail, offices and residential components at 10 units with a maximum floor to area ratio of 3:1. Covered parking is proposed on the first floor along with pedestrian-oriented retail. Access to the property is proposed from Nueces Street and abutting alley north of the property. Approximately 11-12 parking spaces are proposed with 3 spaces and loading zone accessed from the abutting alley.

**Transportation**

- 1 No additional right-of-way is needed at this time.
- 2 The trip generation under the requested zoning is estimated to be 3,282 trips per day, assuming that the site develops to the maximum intensity allowed under the zoning classification (without consideration of setbacks, environmental constraints, or other site characteristics). The proposed development of 18 residential units, 4,300sf of office and 1,750sf of restaurant will generate approximately 464 trips per day.
- 3 A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day. [LDC, 25-6-117]

**Environmental**

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Shoal Creek Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.
2. Impervious cover is not limited in this watershed class; therefore the zoning district impervious cover limits will apply.
3. This site is required to provide on-site structural water quality controls (or payment in lieu of) for all development and/or redevelopment when 5,000 s.f. cumulative is exceeded, and detention for the two-year storm. At this time, no information has been provided as to whether this property has any pre-existing approvals which would preempt current water quality or Code requirements.
4. According to flood plain maps, there is no flood plain within the project area.
5. At this time, site-specific information is unavailable regarding existing trees and other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.
6. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

**Water and Wastewater**

1. The landowner intends to serve the site with City of Austin water and wastewater utilities.
2. The landowner, at own expense will be responsible for providing the water and wastewater utility improvements, offsite main extension, system upgrades, utility adjustments and utility relocation.

3. Also, the water and wastewater utility plan must be reviewed and approved by the Austin Water Utility.
4. The plan must be in accordance with the City of Austin utility design criteria.
5. The water and wastewater utility construction must be inspected by the City.
6. The landowner must pay all associated and applicable City fees.

**Compatibility Standards**

- 1 This site is not subject to compatibility standards under the provisions of 25-2-581

**Rousselin, Jorge**

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**From:** Shoal Creek Associates [REDACTED]

**Sent:** Sunday, August 20, 2006 6:37 PM

**To:** [REDACTED];  
[REDACTED];  
[REDACTED]

**Cc:** Rousselin, Jorge

**Subject:** C14-06-0158

Dear Chairman Sullivan and Members of the City of Austin Planning Commission:

We own property at 603 West 18th Street, which is within 300 feet of the proposed zoning change in case C14-06-0158. This case has been scheduled for a public hearing on Tuesday, August 22, 2006. The site for the proposed zoning change is 1801 Nueces, just south of Martin Luther King Boulevard, the boundary between the University area and downtown. The applicant is proposing a multi-story building that will be a mixture of residential, office, and retail uses. We favor the proposed change in principle, but are concerned about parking. We are writing to request that the City require the developer to provide sufficient parking on-site to meet the increase in demand that will be generated by the proposed development. If not, existing offices, businesses, and residences in the area will be adversely affected by the change. Thank you very much for your consideration.

Sincerely,  
David and Phyllis Warner

**RECEIVED**

AUG 21 2006

**Neighborhood Planning & Zoning**

## PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Board of Zoning Adjustment and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

[www.ci.austin.tx.us/development](http://www.ci.austin.tx.us/development)

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-06-0158

Contact: Jorge Rousselein, (512) 974-2975

Public Hearing:

August 22, 2006 Planning Commission

SCOTT SAZERS  
Your Name (please print)

1800 Queens St.

Your address(es) affected by this application

*Scott Sazers*  
Signature

8-15-06  
Date

Comments

*\*OK with me as long as there is plenty of on-site parking. Any RETAIL will stress existing street parking.*

RECEIVED

AUG 21 2006

Neighborhood Planning & Zoning

If you use this form to comment, it may be returned to  
City of Austin  
Neighborhood Planning and Zoning Department  
Jorge Rousselein  
P. O. Box 1088  
Austin, TX 78767-8810

I am in favor  
 I object

## Rousselin, Jorge

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**From:** Scott Sayers [REDACTED]  
**Sent:** Wednesday, September 27, 2006 3:02 PM  
**To:** Wynn, Will, McCracken, Brewster, Rousselin, Jorge, Dunkerley, Betty, Kim, Jennifer, Leffingwell, Lee; Cole, Sheryl, Martinez, Mike [Council Member]  
**Subject:** Re postponement of case number C14-06-0158

Dear Mayor Wynn,

Ben Crenshaw and I own a building at 1800 Nueces St. where we have had our offices for the last 20 years. Along with the other neighbors of 1801-1805 Nueces, we have only recently been notified of a zoning change request for that property from GO to mixed use. Because of parking concerns and the vague nature of the applicant's plans for the property, several of the neighbors are asking for a postponement on this case until we can meet with the owner and architect. To date they have not made themselves available to address the neighbors concerns despite our attempts to set up a meeting.

Please advise the best way for us to go about achieving this postponement. While we are not necessarily against this zoning change, we have not seen concrete plans for this property and none were presented to the Planning Commission. Only an idea of what they MIGHT do with the property. Our concern is that a significant amount of retail without adequate parking will distress our neighborhood further, especially since the existing businesses were required to provide 100% parking based on square footage. Some of the recent downtown mixed use projects have had waivers or have only been required to provide a small percentage of parking based on square footage, and we don't want to be considered a neighborhood with characteristics similar to downtown. While we are close, the demographic difference is significant. There is very little walk-in traffic for retail businesses, so a parking waiver does not make sense for this location. If granted, it would be at the expense and to the detriment of the existing business owners.

The Planning Commission made a huge mistake in passing it through their members, and in fact, I believe they did not understand or consider the nature of our particular neighborhood. The parking concerns drastically affect the businesses and residents of this neighborhood, especially since we are located right in between the University and ACC. Students park in our area all day long and spaces are at a premium.

I appreciate your attention to this matter and will do whatever necessary that you suggest will help us address this issue.

Best regards,  
Scott Sayers

## Rousselin, Jorge

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**From:** Phyllis Warner [REDACTED]  
**Sent:** Wednesday, September 27, 2006 3:21 PM  
**To:** Rousselin, Jorge  
**Subject:** C14-06-0158

The following is a copy of a letter I just e-mailed to Mayor Wynn, Mayor Pro-tem Dunkerley, and the Members of the Austin City Council.

We own property at 603 West 18th Street, which is within 200 feet of the proposed zoning change in case C14-06-0158. This case has been scheduled for a public hearing on Thursday, September 28, 2006. The site for the proposed zoning change is 1801 Nueces, just south of Martin Luther King Boulevard, the boundary between the University area and downtown.

The applicant is proposing a multi-story building that will be a mixture of residential, office, or retail uses that are yet to be determined. Although in principle, we do not oppose a mixed-use development, we are very concerned about the impact on parking. Specifically, we are concerned that the site could be developed with as little as 20 percent of the parking required for office or retail uses elsewhere in the city, and as little as 60 percent of the parking required for residential uses elsewhere in the city. Most of the existing structures in our area depend on the availability of some on-street parking. Therefore, intense development of the site at 1801 Nueces without sufficient off-site parking would adversely affect existing offices, businesses, and residences in the area.

We are writing to request that a change in the zoning of 1801 Nueces be conditioned on a requirement that the developer provide sufficient on-site parking to meet the increase in demand that will be generated by whatever is developed on the site. If not, existing offices, businesses, and residences in the area will be harmed by the proposed change.

Thank you very much for your consideration.

Sincerely,  
Phyllis Warner

## Rousselin, Jorge

---

**From:** Chris Riley [REDACTED]  
**Sent:** Thursday, September 28, 2006 12:58 AM  
**To:** Wynn, Will, Dunkerley, Betty; Martinez, Mike [Council Member], Kim, Jennifer; Leffingwell, Lee, McCracken, Brewster, Cole, Sheryl  
**Cc:** Rousselin, Jorge; Rick Hardin  
**Subject:** 1801 Nueces (Agenda Item #102)

Mayor and Council Members:

I hope you'll support the conditions requested by the 5 Rivers Neighborhood for the upzoning at 1801 Nueces, especially the suggested requirement that 15 percent of the gross building area be restricted to residential uses. That area is well suited for residential use, and it would be a shame to get some bland office building there instead.

Thanks for your consideration -

Regards,

Chris Riley

1310 San Antonio

## Rousselin, Jorge

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**From:** Rick Hardin [REDACTED]  
**Sent:** Thursday, September 28, 2006 1 28 PM  
**Subject:** Case No C14-06-0158

**Attachments:** Oasis\_1801\_Nueces\_Zoning\_Uses.pdf, rgh.vcf



Oasis\_1801\_Nueces\_Zoning\_Uses.pdf (523 B)  
rgh.vcf (523 B)

Mayor and Council,

I represent 5 Rivers Neighborhood Association (an area bounded by MLK, West Avenue, Lavaca, and 12th Street).

We requested (unsuccessfully) that the applicant meet with us to discuss several concerns we have regarding their proposed zoning change request from GO to DMU for the property at 1801 Nueces Street

5 Rivers has been contacted and reviewed a number of letters of concern from nearby property owners, and from several surrounding neighborhood group leaders. Concerns have been expressed from Judges Hill, Caswell Heights, Mr. Chris Riley, Linda Team, and others

5 Rivers has concerns as well, which echo most of the concerns we have heard, including concerns regarding sidewalks, permitted uses, and minimum requirements for residential uses. (This property is currently all residential)

I invite Ms. Carter and her client Mr. Mobley to take time out to meet with the neighbors and surrounding neighborhoods, to discuss and consider a few relevant issues and concerns which we share.

Please see the attached "Requested Conditional Overlay Conditions" which 5 Rivers asks that City Council consider in connection with its deliberations and decisions upon this zoning Case No C14-06-0158. Your help and consideration are most appreciated

Respectfully,  
Richard G. Hardin  
President 5 Rivers

**CASE NO. C14-06-0158**

**NAME: OASIS IN WEST CAMPUS**

**ADDRESS: 1801 NUECES STREET (N.E. Corner of Nueces & 18<sup>TH</sup> St)**

---

**5 RIVERS NEIGHBORHOOD  
REQUESTED (CO) CONDITIONAL OVERLAY CONDITIONS**

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1. **MINIMUM PERCENTAGE OF RESIDENTIAL USES (REQUESTED):** A minimum of 15% of the gross building area shall be restricted to residential uses.
2. **PROHIBITED ZONING USES (REQUESTED):** The following Commercial Uses shall be prohibited:

**§ 25-2-4 COMMERCIAL USES**

(15) **COCKTAIL LOUNGE** use is the use of a site for retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, and similar uses, other than a restaurant use as that term is described in this section.

(40) **LIQUOR SALES** use is the use of a site for the retail sale of alcoholic beverages for off-premises consumption. This use includes liquor stores and bottle shops.

(47) **PAWN SHOP SERVICES** use is the use of a site for the lending of money on the security of property pledged in the keeping of the pawnbroker, and the incidental sale of the property.

(60) **RESTAURANT (GENERAL)** use is the use of a site for the preparation and retail sale of food and beverages and includes the sale and on-premises consumption of alcoholic beverages as an accessory use

3. **REQUIREMENT FOR PARTICIPATION IN GREAT STREETS SIDEWALK PROGRAM (REQUESTED):** To the extent that development on the property exceeds sixty (60) feet in height, the property shall be required to install a new sidewalk along Nueces Street which complies with Great Streets Sidewalk Design Guidelines
4. **VEHICLE TRIP LIMITATION:** Limit Uses on the property to those which generate 2,000 vehicle trips per day or less.

**Rousselin, Jorge**

---

**From:** Rick Hardin [REDACTED]  
**Sent:** Tuesday, October 24, 2006 4 28 PM  
**To:** Rousselin, Jorge  
**Cc:** [REDACTED]  
**Subject:** Zoning Case # C14-06-0158

**RECEIVED**

**Attachments:** 5 RIVERS CONDITIONAL OVERLAY CONDITIONS pdf, rgh.vcf

OCT 17 2006

Neighborhood Planning & Zoning



5 RIVERS  
DITIONAL OVERLAY

rgh.vcf (389 B)

Mr. Rousselin,

I attach what is admittedly a "draft" which I received from Ms Donna Carter concerning Zoning Case # C14-06-0158 The attached draft Conditional Overlay from Ms. Carter, responds point by point to a 5 Rivers proposed Conditional Overlay that was offered to the applicant

This response is appreciated To the extent that the applicant is willing to offer this attachment as the basis for a Conditional Overlay to their zoning request, then 5 Rivers has no objections to this proposal, and believes this to be a meaningful step forward.

The only point on the 5 Rivers list at which they seem to be at variance is Restaurant (General) Use The detailed caveats as to Great Streets Sidewalks and Residential Uses are acceptable to 5 Rivers, and I believe can be worked out in the final wording in a Conditional Overlay.

I understand that there are as many as six (6) nearby neighbors who have apparently signed a petition in opposition to this zoning request. My understanding that these neighbors are in opposition specifically to Restaurant (General) Use and in particular insufficient proposed parking for this restaurant use To the extent that these nearby neighbors and this applicant find a way to compromise or resolve this issue, 5 Rivers will support any such resolution between the parties on this particular issue or use and parking

If no resolution can be reached between adjacent neighbors and the applicant, then the City Council will ultimately need to make a decision as to this zoning application

RECEIVED

NOV 07 2006

P E T I T I O N

Date: Oct 11, 2006

File Number: C14-06-0158

Neighborhood Planning & Zoning

Address of Rezoning Request: 1801-1805 Nueces St.

To: Austin City Council

We, the undersigned owners of property affected by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development Code which would zone the property to any classification other than GO (EXISTING)

(STATE REASONS FOR YOUR PROTEST)

Lack of parking, no development plans shown + other issues  
(PLEASE USE BLACK INK WHEN SIGNING PETITION)

Signature	Printed Name	Address
	SCOTT SAYERS (OWNER)	1800 Nueces St
	JULIE SAYERS (CO-OWNER)	1800 Nueces St
	Grant Fobbe	owner 507 W 19th St
	Phyllis Warner	owner 603 W 18th St
	Judy L. Alexander	601 W. 18th St
	Arlene Montgomery	1706 Nueces St.
	Joseph Martin	1707 Nueces St.
	(FOR TEXAS CRIMINAL DEFENSE LAWYERS ASSN)	
	La Familia Partnership	601 W. Martin Luther King Blvd. 1806 Nueces St.
		TIFA TUNTS
		Timmy Jhrs

Date: Oct. 11, 2006

Contact Name: SCOTT SAYERS

Phone Number: 512/478-3483

P E T I T I O N

**RECEIVED**

NOV 07 2006

Date: Oct 11, 2006

File Number: C14-06-0158

Neighborhood Planning & Zoning

Address of  
Rezoning Request: 1801-1805 Nueces St

To: Austin City Council

We, the undersigned owners of property affected by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development Code which would zone the property to any classification other than GO (EXISTING).

(STATE REASONS FOR YOUR PROTEST)

Lack of parking, NO development plans shown + other issues  
(PLEASE USE BLACK INK WHEN SIGNING PETITION)

<u>Signature</u>	<u>Printed Name</u>	<u>Address</u>
	SCOTT SAYERS	(OWNER) 1800 NUECES ST
	Julie Sayers	(CO-OWNER) 1800 NUECES ST
	Grant Fother	owner 507 W 19th St
	Phyllis Warner	owner 603 W 18th St
	Judy L. Alexander	601 W. B St
	Arlene Montgomery	1706 Nueces St.
	Joseph Martinez	1707 Nueces St. (for Texas Criminal Defense Lawyers Assn)
	"Jack" Nash is	517 W. Martin Luther King Blvd.
	John H. Nash III	(next to subject property on Nueces St.)

TALO CABANA

Date: Oct. 11, 2006

Contact Name: Scott Sayers

Phone Number: 512/478-3483

# PETITION

Case Number. **C14-06-0158** Date Dec 9, 2006

Total Area within 200' of subject tract (sq ft) 202,611.33

1	<u>02-1002-0505</u>	<u>WARNER DAVID &amp; PHYLLIS G</u>	<u>5,443.23</u>	<u>2.69%</u>
2	<u>02-1002-0506</u>	<u>ALEXANDER JUDY L &amp; ARLENE K MO</u>	<u>11,891.03</u>	<u>5.87%</u>
3	<u>02-1002-0605</u>	<u>LA FAMILIA PARTNERSHIP LTD</u>	<u>11,405.18</u>	<u>5.63%</u>
4	<u>02-1002-0606</u>	<u>LA FAMILIA PARTNERSHIP LTD</u>	<u>7,141.98</u>	<u>3.52%</u>
5	<u>02-1002-0609</u>	<u>SAYERS SCOTT</u>	<u>11,596.73</u>	<u>5.72%</u>
6	<u>02-1002-1101</u>	<u>TEXAS CRIMINAL</u>	<u>14,411.89</u>	<u>7.11%</u>
7	<u>02-1002-1102</u>	<u>509 W18TH LP</u>	<u>7,615.47</u>	<u>3.76%</u>
8	<u>02-1002-1103</u>	<u>FOSTER GRANT E</u>	<u>7,255.36</u>	<u>3.58%</u>
9	<u>02-1002-1201</u>	<u>NASH JOHN H III</u>	<u>29,309.79</u>	<u>14.47%</u>
10				<u>0.00%</u>
11				<u>0.00%</u>
12				<u>0.00%</u>
13				<u>0.00%</u>
14				<u>0.00%</u>
15				<u>0.00%</u>
16				<u>0.00%</u>
17				<u>0.00%</u>
18				<u>0.00%</u>
19				<u>0.00%</u>
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21				<u>0.00%</u>
22				<u>0.00%</u>
23				<u>0.00%</u>
24				<u>0.00%</u>
25				<u>0.00%</u>

Validated By:

Stacy Meeks

Total Area of Petitioner:

106,070.65

Total %

52.35%



November 20, 2006

Mayor Will Wynn  
Mayor Pro Tem Betty Dunkerley  
Council Member Lee Leffingwell  
Council Member Mike Martinez  
Council Member Jennifer Kim  
Council Member Brewster McCracken  
Council Member Sheryl Cole  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767

RE: Zoning Case at 1801-1805 Nueces Street (File Number C14-06-0158)

Mayor and Council Members

This letter serves to follow-up on comments presented at the public hearing on October 19<sup>th</sup>, clarify information about the case and to request specific action of the City Council on the zoning case located at 1801-1805 Nueces Street (File Number C14-06-0158).

Specific action requested of the City Council:

- Postpone further action on Second and/or Third Reading of an ordinance on this case to January 11, 2007.
- Require as a condition to approval of DMU zoning on the property that parking will meet the standards of the Central Urban Redevelopment (CURE) Combining District Area (Section 25-6-593 (B) and (C) of the City Code).
- Require as a condition to approval of DMU zoning on the property that all conditions outlined in the correspondence from Rick Hardin of the 5 Rivers Neighborhood (copy attached) are incorporated into the zoning ordinance.

The undersigned represent four (4) business owners of the property immediately across the street (west and south) of the subject property. There is a VALID PETITION submitted against this zoning case. Currently, owners of more than 50 percent of the property eligible to participate in such a petition have signed. More property owners are requesting to sign the petition as they are made aware of the problems DMU zoning will create unless the subject property is required to provide parking to CURE standards – those standards that all surrounding property have had to permit and operate under.

As the subject property owner and his representative clearly stated at the City Council public hearing, there is no plan for development of the property i.e. the rezoning of the property is purely speculative. No plan – therefore, there is nothing for those property owners immediately impacted by this rezoning change to evaluate, discuss and/or agree to

The owner applicant suggested it would be too expensive to do any planning prior to having acquired the requested zoning. It seems unreasonable and unrealistic that this owner has acquired the property for hundreds of thousands of dollars and proposes to construct a multi-million dollar mixed-use project and has not or cannot spend several thousand dollars to perform concept site and use planning on the property. It is, in fact, almost a standard that conceptual planning is brought forth for consideration and discussion during the zoning process when zoning change is requested of a property surrounded by existing business owners and homeowners.

Having obtained no information about the proposed uses and project scope directly from the property owner we have turned to the written information in the City Staff prepared comments on this case.

First, it states there will be 11 to 12 parking spaces and a loading zone at ground level. In approximately one hour, using readily available COA design criteria, a parking lot layout of this 46 foot wide and 140 foot deep residential lot was prepared (see attached). Ignoring the fact that the lot does not meet the required COA Code width (47 feet), the attached layout maximizes the parking capabilities of the property. There are 10 parking spaces and a loading zone provided. The additional requirements for handicapped parking stall width and locations for columns to support the building above have been ignored. That area not occupied by parking lot is cross-hatched. None of these areas are as large as a parking space and one, if large enough, would have to contain an elevator shaft to the multi-floor building space above. This layout suggests that with only 10 parking spaces (not 11 or 12), there is no space available for ground level retail. This is in direct conflict with the Staff comment and the owner's representation to the City Council that the project plans to include ground level pedestrian-oriented retail space

Secondly, the Staff comments state the property is a 6,534 square foot office building. In fact, the property is improved with three small structures totaling 2,871 square feet (per TCAD), which are all currently being used residentially. The lot size is approximately 6,534 square feet.

Next, the comments state the proposed development would contain a mix of uses to include retail, offices and residential components. As previously stated, ground-floor retail seems unlikely since the entire ground level of the property would be covered with a parking lot.

The comments refer to the inclusion of 10 units as a residential component. If all the units were only one-bedroom units, at the DMU zoning standard of 60 percent of the 1.5

parking spaces per one-bedroom unit, this proposed residential component would require 9 parking spaces and leave only 1 parking space to serve the additionally proposed office and retail uses. This leaves us to believe that somewhere there is a disconnect in the mix of uses the site can support.

Then there is the consideration of office use. The property currently has the benefit of being within the CURE District allowing it to only provide 80% of the parking spaces required elsewhere in the City. This CURE District parking is the standard all of the surrounding retail and office buildings have had to permit and construct to – including our properties. If given DMU zoning, the subject property would only have to supply 20% of the otherwise required parking, only one quarter of the standard to which all other surrounding properties have had to comply. And under the DMU parking standard scenario, the 10 parking spaces that can physically be situated on the proposed project would support a 13,750 square foot office building. That compares with the 2,480 square foot, 1,874 square foot, 2,620 square foot, 2,020 square foot and 2,333 square foot office and retail buildings, each sitting on lots of equal size as the subject property, located immediately west and south of the subject property.

We believe the reduced parking requirement of DMU zoning can work when several factors are present. First, the project must have enough size and variation of uses that a parking space can be used by multiple tenants at non-conflicting periods of the day. Secondly, alternative parking resources, such as private surface parking and/or structured parking garages, must be readily available. This property is 6,500 square feet, originally platted as a single-family lot. We believe the above information has demonstrated that the property's limited size will not allow for a project with enough critical mass and mix of uses to provide successful shared parking. Additionally, we are not aware of any such alternative surface or structured parking resources available in any direction for blocks from the subject property.

Therefore, the most likely result of granting DMU zoning on this property will be an "under-parked" project that imposes a disproportionate demand on the available metered street parking of the neighborhood. How much?

The difference between the CURE District parking standard and the DMU zoning parking standard for a 13,750 square foot office building is 30 parking spaces. There are only a total of 44 metered street parking spaces between 17<sup>th</sup> and 19<sup>th</sup> Streets on Nueces and between San Antonio and Rio Grande on 18<sup>th</sup> Street. If the CURE District parking standard is reasonable, already a 20% reduced requirement and that standard to which all surrounding properties have had to permit, then this one project, representing less than four (4) percent of the land area fronting the street parking spaces described, could create demands utilizing over 68 percent of the readily available public parking spaces (30 of 44 spaces equals 68.2%). Four percent creating the demand on sixty-eight percent of the resource. This is simply unreasonable and unfair to the existing property owners and small businesses operating in the neighborhood. Street parking in the neighborhood currently works - spaces are available for visitors of residential properties and visitors/customers of the office and retail use properties along these streets. However, a

single under-parked project could change this status to the detriment of numerous existing property owners. In an October 17<sup>th</sup> email from Ms. Donna Carter (owner's representative) to Mr. Rousselin of the City Staff, Ms. Carter makes the statement that the property "will not be relying on the on-street parking for the project". How? If this is a true statement then there should be no problem agreeing to park the project to the CURE District parking standard.

Comments were made at the City Council public hearing that suggest the property owner and his representative had worked with and come to an agreement with the "Neighborhood Association" The facts are:

- The subject property's representatives met and negotiated with the 5 Rivers Neighborhood, specifically Mr. Rick Hardin.
- None of the property owners within 200 feet of the subject property were notified and/or invited to any such meetings by the 5 Rivers Neighborhood or the property owners. None of the property owners within 200 feet of the subject property, those property owners, residents and business owners most impacted by this proposed zoning change, were asked to participate or provide their input to the "conditions" needed to "support" the zoning change.
- As per the attached email dated October 20<sup>th</sup> from Rick Hardin of the 5 Rivers Neighborhood to Scott Sayers, the 5 Rivers Neighborhood "has not indicated its support of this case".

Not speaking wrongly of the efforts of Mr. Hardin, it is simply not true to suggest or imply that the "neighborhood" was at all involved in discussions which formulated the 5 Rivers Neighborhood proposed Conditional Overlay

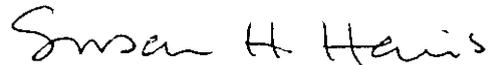
Comments were made at the City Council public hearing that appropriate parking for the project would be determined at the site plan stage. It was implied that a level of parking greater than that required by the zoning on the property could be imposed at this stage. That is not true. If granted DMU zoning without conditions in the zoning ordinance to the required parking standard, there will be no requirement to provide more than 20 percent of the required parking for office and retail development of the site. It is now, at the zoning approval stage, that the standard of parking for the project must be established. The requested standard by the property owner is only 25 percent of that requirement every surrounding property has had to permit and operate under. Why should this property be granted such a dramatically lower standard?

In conclusion, redevelopment of this property is not the issue. Mixed use of this property is not the issue. The issue, lacking an actual plan for development, is the almost certain negative impact this zoning change, without appropriate conditions, will have on the existing residential and business owners of this neighborhood. As stated above, we would request the City Council grant DMU zoning with the condition to meet CURE

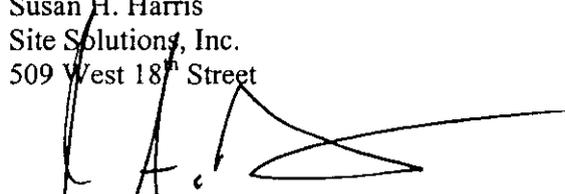
District parking standards and all conditions of the 5 Rivers Neighborhood correspondence.

Thank you for your consideration.

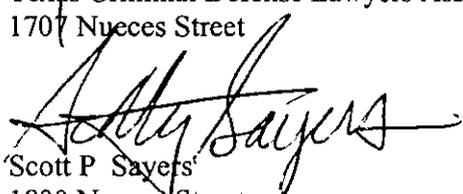
Sincerely,



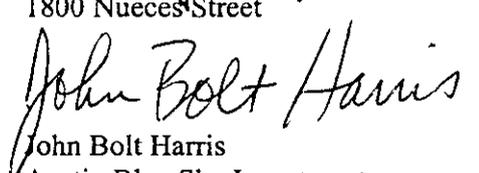
Susan H. Harris  
Site Solutions, Inc.  
509 West 18<sup>th</sup> Street



Joseph A. Martinez  
Texas Criminal Defense Lawyers Association  
1707 Nueces Street



Scott P. Sayers  
1800 Nueces Street



John Bolt Harris  
Austin Blue Sky Investments  
509 West 18<sup>th</sup> Street

Attachments

CASE NO. 14-06-0158

NAME: OASIS IN WEST CAMPUS

ADDRESS: 1801 NUECES STREET (N.E. Corner of Nueces & 18<sup>TH</sup> St.)

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**5 RIVERS NEIGHBORHOOD  
REQUESTED (CO) CONDITIONAL OVERLAY CONDITIONS**

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1. **MINIMUM PERCENTAGE OF RESIDENTIAL USES (REQUESTED):** A minimum of 15% of the gross building area shall be restricted to residential uses.
2. **PROHIBITED ZONING USES (REQUESTED):** The following Commercial Uses shall be prohibited:

**§ 25-2-4 COMMERCIAL USES**

(15) **COCKTAIL LOUNGE** use is the use of a site for retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, and similar uses, other than a restaurant use as that term is described in this section.

(40) **LIQUOR SALES** use is the use of a site for the retail sale of alcoholic beverages for off-premises consumption. This use includes liquor stores and bottle shops.

(47) **PAWN SHOP SERVICES** use is the use of a site for the lending of money on the security of property pledged in the keeping of the pawnbroker, and the incidental sale of the property.

(60) **RESTAURANT (GENERAL)** use is the use of a site for the preparation and retail sale of food and beverages and includes the sale and on-premises consumption of alcoholic beverages as an accessory use.

3. **REQUIREMENT FOR PARTICIPATION IN GREAT STREETS SIDEWALK PROGRAM (REQUESTED):** To the extent that development on the property exceeds sixty (60) feet in height, the property shall be required to install a new sidewalk along Nueces Street which complies with Great Streets Sidewalk Design Guidelines.
4. **VEHICLE TRIP LIMITATION:** Limit Uses on the property to those which generate 2,000 vehicle trips per day or less.



§ 25-6-593 PROVISIONS FOR PROPERTY IN THE CENTRAL URBAN REDEVELOPMENT (CURE) COMBINING DISTRICT AREA.

(A) This section applies to property in the central urban redevelopment (CURE) area that is not in the central business district (CBD) or in a downtown mixed use (DMU) zoning district. The official map of the CURE combining district area as adopted by Ordinance No. 001130-110 is on file with the director.



(B) A person must provide at least 50 percent of the parking spaces required by Appendix A (Tables Of Off-Street Parking And Loading Requirements) for a use occupying a historic landmark or located in a historic district.



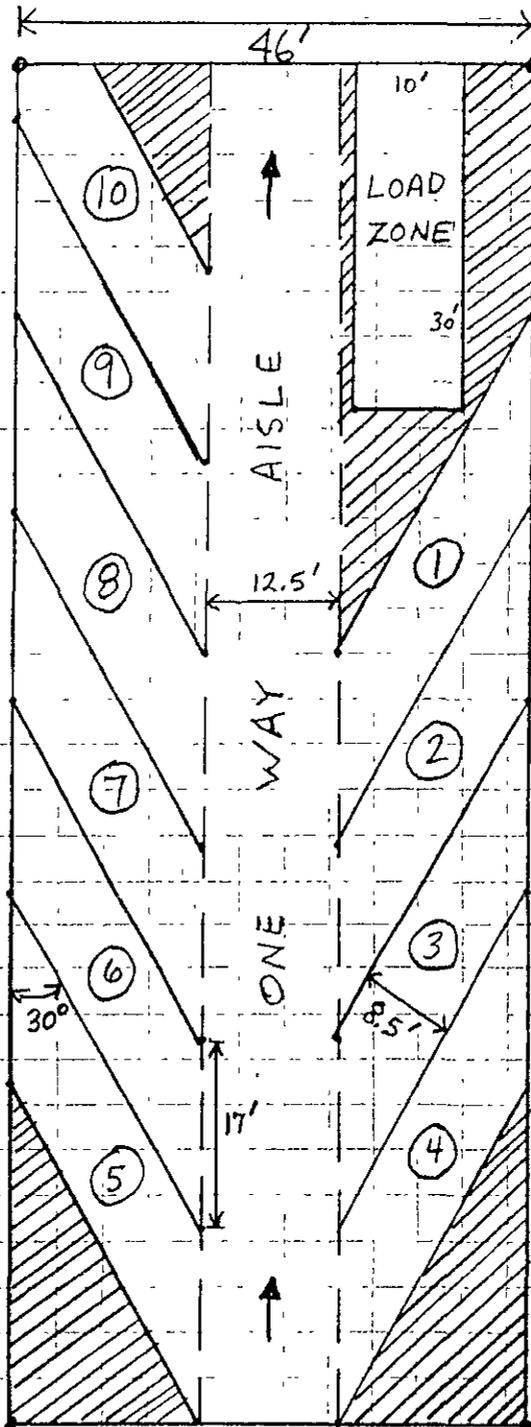
(C) A person must provide at least 80 percent of the parking spaces required by Appendix A (Tables Of Off-Street Parking And Loading Requirements) for residential, civic, or commercial use.

Source: Section 13-5-106(d); Ord 990225-70; Ord. 001130-110; Ord. 031211-11; Ord. 041202-16.



20 FOOT ALLEY

NUECES STREET



RESIDENTIAL USE

W 18<sup>TH</sup> STREET

SCALE: 1" = 16'  
11/10/06

**Subject: Re: Zoning Case # C14-06-0158**

**Date:** Tuesday, October 17, 2006 7:09 PM

**From:** Carter Design Associates <cda@carterdesign.net>

**To:** Rick Hardin <rgh@hardinhouse.net>

**Cc:** <jorge.rousselin@ci.austin.tx.us>, <cda@carterdesign.net>, <sayers@bencrenshaw.com>

**Conversation:** Zoning Case # C14-06-0158

Mr. Rousselin,

This is a draft present to Mr. Hardin. The applicant is prepared to have this as the basis for a Conditional Overlay to the zoning request. We are also aware of the concerns about parking expressed by immediate neighbors of the subject tract. We will not be relying on on-street parking for the project and will infact be providing 2 additional on-street parking places due to the closure of the extensive curb cuts that currently exist on the lot. We will also work with city staff and the neighborhood when we know the number of parking places that we can provide. With that number he appropriate density and mix of uses based on the parking.

Donna Carter

Carter Design Associates  
817 West Eleventh Street  
Austin, TX 78701

Phone: 512-476-1812

Fax: 512-476-1819

e-mail: cda@carterdesign.net

On 10/20/06 11:18 AM, "Rick Hardin" <rgh@hardinhouse.net> wrote:

> Scott,  
> I had a personal engagement to attend last night or I would have been  
> there. I know of no owners within petition distance of this property  
> who have contacted me regarding this case other than you. If this was a  
> first reading only, I would not count on a 3rd reading being the same  
> vote. Your group needs to focus in on making sure you have 2 votes on  
> council, and one council member who will be your advocate.  
>  
> The nearest properties in which I have ownership to this subject  
> property are at 1510 San Antonio and 1907 Rio Grande.  
>  
> 5 Rivers has not indicated its "support" of this case. You may recall 5  
> Rivers was in opposition to the zoning case for several issues listed on  
> a proposed CO, all but one of which, the applicant appeared to respond  
> favorably to. The issues which you and 5 other owners have voiced in  
> part overlap the 5 Rivers CO as to General Restaurant use, and also  
> include that of parking, parking was not a part of 5 Rivers CO list.  
>